

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CALVINA LEIPUNI PADILLA-  
GONZALEZ,

Plaintiff,

v.

CAROLYN W COLVIN, Acting  
Commissioner of the Social Security  
Administration,

Defendant.

CASE NO. 14-cv-05552 JRC

ORDER GRANTING MOTION FOR  
ATTORNEY'S FEES PURSUANT  
TO 42 U.S.C. § 406(b)

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge and Consent Form, Dkt. 5; Consent to Proceed Before a United States Magistrate Judge, Dkt. 6).

This matter is before the Court on plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) (*see* Dkt. 24). Defendant has no objection to plaintiff's request (*see* Dkt. 27).

The Court may allow a reasonable fee for an attorney who represented a Social Security Title II claimant before the Court and obtained a favorable judgment, as long as such fee is not in

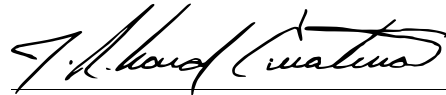
1 excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v.*  
2 *Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first  
3 to such agreement and will conduct an independent review to assure the reasonableness of the  
4 fee requested, taking into consideration the character of the representation and results achieved.  
5 *See Grisbrecht, supra*, 535 U.S. at 807, 808 (footnote omitted) (citations omitted). Although the  
6 fee agreement is the primary means for determining the fee, the Court will adjust the fee  
7 downward if substandard representation was provided, if the attorney caused excessive delay, or  
8 if a windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151  
9 (9th Cir. 2009) (*citing Grisbrecht, supra*, 535 U.S. at 808).

10 Here, the representation was standard, at least, and the results achieved excellent (*see*  
11 Dkt. 25, Attachment 1). *See Grisbrecht, supra*, 535 U.S. at 808. Defendant stipulated to remand  
12 the matter subsequent to plaintiff's filing of her Opening Brief (Dkt. 18). Following a second  
13 administrative hearing, the Administrative Law Judge issued a favorable Decision, finding  
14 plaintiff disabled (*see* Dkt. 25, p. 1, Attachment 1). There has not been excessive delay and no  
15 windfall will result from the requested fee.

16 Plaintiff's total back payment was \$54,049 and \$13,512.25 (25%) was withheld for  
17 payment of attorney's fees (*see* Dkt. 25 at p. 2, Attachment 1). Plaintiff has moved for a gross  
18 attorney's fee of \$7,512.25 and will refund the first \$4,459.83 (previously awarded under the  
19 Equal Access to Justice Act (EAJA) (Dkt. 23) to plaintiff (*see* Motion, Dkt. 24, p. 1) and the  
20 Court has considered plaintiff's gross attorney's fee of \$7,512.25 and the EAJA award received  
21 by plaintiff's attorney in the amount of \$4,459.83; *Parish v. Comm'r. Soc. Sec. Admin.*, 698 F.3d  
22 1215, 1221 (9th Cir. 2012).

1 Based on plaintiff's motion and supporting documents (*see* Dkt. 24, Dkt. 25  
2 w/Attachments 1, 2, 3 and Dkt. 26), and with no objection from defendant (Dkt. 27), it is hereby  
3 ORDERED that attorney's fees in the amount of \$7,512.25 be awarded to plaintiff's attorney  
4 pursuant to 42 U.S.C. § 406(b). Following receipt of the fee award, plaintiff's attorney will  
5 refund to plaintiff \$4,459.83, which was previously paid by the Commissioner under the EAJA.

6 Dated this 6th day of September, 2016.

7 

8 J. Richard Creatura  
9 United States Magistrate Judge  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24